

Docket No.: 1906-0120P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Miroslaw Z. BOBER

Patent No.: 7,613,342 B1

Issued: November 3, 2009

For: METHOD, APPARATUS, COMPUTER
PROGRAM, COMPUTER SYSTEM AND
COMPUTER-READABLE STORAGE FOR
REPRESENTING AND SEARCHING FOR AN
OBJECT IN AN IMAGE

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37
CFR § 1.705 (d)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Patentee notes that the 576 days of Patent Term Adjustment (PTA) as indicated on the Issue Notification mailed on October 14, 2009 for the above-captioned patent disagrees with Patentee's own calculation of PTA. Thus, the PTA for this patent should be re-calculated.

Additionally, Patentee received the attached decision on the Request for Reconsideration of Patent Term Adjustment, filed on July 17, 2009. The Request for Reconsideration was dismissed as premature. Therefore, the Patentee is now submitting a timely Request for Reconsideration of Patent Term Adjustment. Pursuant to CFR § 1.705 (d), the Patentee hereby requests reconsideration of the patent term adjustment indicated on the Issue Notification for Patent No. 7,613,342 (Exhibit 1). Specifically, while the Issue Notification indicates a patent term adjustment of 576 days, Patentee submits that the patent term adjustment should correctly be 1,242 days.

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STATEMENT OF FACTS

1. The Issue Notification issued in this case on October 14, 2009 indicated that the Patent Term Adjustment to date was 567 days.
2. The U. S. Patent and Trademark Office's Patent Term Adjustment History, as indicated in the Patent Application Information Retrieval (PAIR) system indicates a Patent Term Adjustment due to 496 days of applicant delays and 1072 days of USPTO delays (see Exhibit 2).
3. In accordance with the recent District Court decision in *Wyeth et al. v. Dudas*, 88 USPQ2d 1538 (D.D.C. 2008), the correct Patent Term Adjustment should be 1,071 days of prosecution delay, plus 667 days for the failure of the USPTO to issue a patent within three (3) years of the actual filing date of the application (37 C.F.R. § 1.702(b)), minus 496 days of applicant delays, for a total of 1242 days of Patent Term Adjustment.
4. Accordingly, Patentee hereby requests that the U. S. Patent and Trademark Office correct the calculation of the Patent Term Adjustment for the above-identified patent to 1242 days.

**COMPLIANCE WITH REQUIREMENTS OF
37 CFR § 1.705 (b)(1) AND (2)**

5. A statement of facts is presented above, detailing the relevant dates and the correct patent term adjustment.
6. The present patent is not subject to any Terminal Disclaimer or any expiration date specified in a Terminal Disclaimer (§ 1.705(b)(2)(iii)).
7. There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified application (§ 1.705(iv)(B)).

CONCLUSION

The USPTO is requested to correctly indicate that U.S. Patent No. 7,613,342 is entitled to 1242 days of Patent term Adjustment.

PAYMENT OF FEES

Applicant notes that the \$200.00 fee set forth in 37 C.F.R. § 1.18(e) for consideration of the application for patent term adjustment under 1.705(d) was submitted on July 17, 2009. Accordingly, Applicant does not believe any fees are currently due. However, if necessary, the Commissioner is hereby authorized to charge the amount of \$200.00 to Deposit Account No. 02-2448 for consideration of this request as required by 37 C.F.R. 1.18(e).

Dated: December 2, 2009

Respectfully submitted,

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Attachment(s):

Decision on the Request for Reconsideration of PTA
Exhibit 1 – Issue Notification
Exhibit 2 – Patent Term Adjustment History From PAIR